



**Dan Skopec**  
*Acting Secretary*

# State Water Resources Control Board

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## Executive Office

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**Arnold Schwarzenegger**  
*Governor*

May 12, 2006

Carl Torgersen, Chief  
SWP Operations Control Office  
Department of Water Resources  
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Sacramento, CA 95821

Ronald Milligan, Operations Manager  
Central Valley Operations Office  
U.S. Bureau of Reclamation  
3310 El Camino Ave., Suite 300  
Sacramento, CA 95821

Dear Mr. Torgersen and Mr. Milligan:

REPORT IN COMPLIANCE WITH CONDITIONS A-2 AND A-3 OF ORDER WR 2006-0006

This letter responds to your letter dated April 14, 2006 submitting an April 15, 2006 report in compliance with conditions A-2 and A-3 of State Water Resources Control Board (State Water Board) Order WR 2006-0006. In Order WR 2006-0006, the State Water Board issued a Cease and Desist Order against the Department of Water Resources (DWR) and the U.S. Bureau of Reclamation (USBR) for threatened violation of the 0.7 millimhos per centimeter (mmhos/cm) electrical conductivity objective at stations C-6 (San Joaquin River at Brandt Bridge), C-8 (Old River near Middle River), and P-12 (Old River at Tracy Road Bridge). Condition A-2 requires a detailed plan and schedule of activities to obviate a threat of non-compliance. Condition A-3 requires a schedule for developing an operations plan that reasonably protects southern Delta agriculture if permanent operable gates (barriers) are to be installed.

The April 15, 2006 report meets the requirements of conditions A-2 and A-3, except for additional information that is needed regarding the permitting process for the permanent gates prior to final approval of the report. Within 30 days from the date of this letter, please submit a revised report to me that includes: 1) a list of the various permits that are required prior to construction of the gates; 2) the dates by which the applications will be submitted to the various agencies; 3) and the anticipated permit dates. In developing this list of permits and timeline, please consider that complete applications should be submitted within the appropriate statutory or regulatory timeframes to allow adequate time for the applications to be processed prior to the needed permit date, but not so soon as to preclude review of the final environmental documentation for the project as necessary.

***California Environmental Protection Agency***

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A complete Clean Water Act (CWA) section 401 application should be submitted to the State Water Board, Division of Water Rights, with enough time to issue the certification prior to the planned issuance of the CWA section 404 permit by the U.S. Army Corps of Engineers (USACOE). A CWA section 404 permit cannot be issued until the CWA section 401 certification has been issued. The State Water Board has 30 days after receipt to determine if a CWA section 401 application is complete. After determining that an application is complete, the State Water Board has 60 days in which to issue or deny a certification. Any CWA section 401 application should be submitted only shortly preceding, or after, completion of the final environmental document for the project to avoid denial of a certification due to insufficient environmental information.

The CWA section 404 application should be submitted far enough in advance of the desired permit date to meet the needs of the USACOE and should also be submitted in a time frame that allows adequate consideration of the final environmental document for the project by the USACOE prior to issuance of the permit. I understand that an application must be filed at least 90 days before the permit is issued. The notice of streambed alteration should be submitted to the Department of Fish and Game (DFG) an adequate period prior to the desired date for receipt of a Streambed Alteration Agreement, while also allowing for adequate time for review of the environmental document by DFG. I understand that the notice must be filed at least 90 days before the date of a final agreement. DWR and USBR should consult with the various agencies for which these and other permits are required prior to construction of the gates to determine how far in advance applications should be submitted and should provide that information to the State Water Board.

In addition to the above, DWR and USBR shall immediately inform me of any delays or changes to the three milestone timelines included in the report, including the reasons for such delays or changes. I reserve the right to require additional measures to assure compliance with conditions A-2 and A-3 in response to any delays. Further, I reserve the right to modify my approval of this report to ensure the effectiveness of actual permanent gate operations and to respond to the results of analyses regarding compliance with the objective at Station C-6. In order to allow me to assess whether any changes are needed relating to Station C-6, please submit the report documenting DWR's and USBR's recommendations regarding Station C-6 by November 30, 2006, per the timeline.

Carl Torgersen  
Ronald Milligan

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If you have any questions concerning this matter, please contact Diane Riddle at (916) 341-5297, or Jean McCue at (916) 341-5351.

Sincerely,

Original Signed by Tom Howard for

Celeste Cantú  
Executive Director

cc: Cathy Crothers  
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(Continued next page.)

Carl Torgersen  
Ronald Milligan

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cc: (Continuation page.)

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bcc: VAW, JWK, LFG, GK, LJM, JEM, B. Leidigh

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